IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

Crl.MC.No. 2552 of 2007()

LP.8/2005 of Judicial Magistrate of the First Class -VI, kozhikode

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PETITIONER:

RASHEED O.M,
S/O.ALAVIKUTTY, THAITHOTTAM PARAMBU,
KALLAI.P.O, CALICUT-3.

BY ADV. SRI.P.SANJAY
SRI.M.MUHAMMED SHAFI
SRI.J.ABHILASH

RESPONDENTS:

STATE OF KERALA REP. BY THE
SUB INSPECTOR OF POLICE,
PANNIYANKARA THROUGH PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2552 of 2007

Dated this the 9th day of August, 2007

O R D E R

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Section 323 I.P.C. All offences are bailable, submits the learned counsel for the petitioner. The crime was registered as early as in 1999. Final report was filed and cognizance was taken. As the petitioner was not available for trial, the case against him was split up. Trial against the co-accused proceeded. They have been found not guilty and acquitted. The case against the petitioner has now been transferred to the list of Long Pending Cases. Coercive processes have been issued by the learned Magistrate. The petitioner finds a warrant of arrest issued by the learned Magistrate chasing him.

2. According to the petitioner, he is absolutely innocent. His failure to appear was on account of reasons beyond his control. The petitioner is willing to co-operate with the court for the expeditious disposal of the case. The petitioner apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-